

1-1 By: Naishtat (Senate Sponsor - Rodriguez) H.B. No. 3342  
1-2 (In the Senate - Received from the House May 4, 2011;  
1-3 May 5, 2011, read first time and referred to Committee on Health  
1-4 and Human Services; May 16, 2011, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 7,  
1-6 Nays 0; May 16, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3342 By: Rodriguez

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to representation of and by the state and joinder of the  
1-11 state in certain mental health proceedings.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 571.016, Health and Safety Code, is  
1-14 amended to read as follows:

1-15 Sec. 571.016. REPRESENTATION OF STATE. Unless specified  
1-16 otherwise, in a hearing held under this subtitle, including a  
1-17 hearing held under Subchapter G, Chapter 574:

1-18 (1) the county attorney shall represent the state; or

1-19 (2) if the county has no county attorney, the district  
1-20 attorney, the criminal district attorney, or a court-appointed  
1-21 special prosecutor shall represent the state.

1-22 SECTION 2. Chapter 571, Health and Safety Code, is amended  
1-23 by adding Section 571.0167 to read as follows:

1-24 Sec. 571.0167. HABEAS CORPUS PROCEEDINGS. (a) A petition  
1-25 for a writ of habeas corpus arising from a commitment order must be  
1-26 filed in the court of appeals for the county in which the order is  
1-27 entered.

1-28 (b) The state shall be made a party in a habeas corpus  
1-29 proceeding described in subsection (a). The appropriate attorney  
1-30 prescribed by Section 571.016 shall represent the state.

1-31 (c) In a habeas corpus proceeding in which a state inpatient  
1-32 mental facility or a physician employed by a state inpatient mental  
1-33 health facility is a party as a result of enforcing a commitment  
1-34 order, the appropriate attorney prescribed by Section 571.016 shall  
1-35 represent the facility or physician, or both the facility and  
1-36 physician if both are parties, unless the attorney determines that  
1-37 representation violates the Texas Disciplinary Rules of  
1-38 Professional Conduct.

1-39 SECTION 3. The change in law made by this Act applies only  
1-40 to a hearing or proceeding that commences on or after the effective  
1-41 date of this Act. A hearing or proceeding that commences before the  
1-42 effective date of this Act is governed by the law in effect on the  
1-43 date the hearing or proceeding commenced, and the former law is  
1-44 continued in effect for that purpose.

1-45 SECTION 4. This Act takes effect immediately if it receives  
1-46 a vote of two-thirds of all the members elected to each house, as  
1-47 provided by Section 39, Article III, Texas Constitution. If this  
1-48 Act does not receive the vote necessary for immediate effect, this  
1-49 Act takes effect September 1, 2011.

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